IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

LA.App..No. 1080 of 2003(D)

LAR.399/2000 of PRL.SUB COURT, KOZHIKODE
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APPELLANT: 2ND RESPONDENT:

THE PROJECT OFFICER (OECF),
KERALA WATER AUTHORITY, KOZHIKODE.

BY ADV. SRI.M.V.MATHAI MUTHIRENTHY, SC, KWA
SRI.SAJAN MANNALI, SC, KWA
SRI.BABU VARGHESE, SC, KWA

RESPONDENTS: CLAIMANT & 1ST RESPONDENT:
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1. PARAMBALATH ABDU REHIMAN,
PERUVANNA (AUTHORISED BY PATHUMMA AND FOUR OTHERS)

2. THE SPL. TAHSILDAR (LA) (OECF),
KOZHIKODE.

BY GOVERNMENT PLEADER ADV.SHRI K.V.MANOJ KUMAR
SRI.O.RAMACHANDRAN NAMBIAR
SRI.GEEN T.MATHEW
SRI.V.K.BEERAN, ADDL.ADVOCATE GENERAL

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 29/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID,JJ

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L.A. A. NO. 1080 of 2003-D

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DATED THIS THE 29TH DAY OF NOVEMBER, 2007

J U D G M E N T

Harun-Ul-Rashid, J.

This appeal is filed by the Project Officer(OECF), Kerala Water Authority, Kozhikode against the judgment and decree in L.A.R.No.399/00 on the file of the Principal Sub Court, Kozhikode. Three items of property both garden land and wet land was acquired for the O.E.C.F. water supply scheme. Section 4(1) notification was published on 9.6.1998. The matter was referred to the court at the instance of the claimants who are aggrieved by the fixation of land value by the Land Acquisition Officer. According to the claimant, the potential value of the acquired land is higher than the value of the basic land and therefore value of the acquired land is to be refixed by the court. In support of the claim for enhanced compensation, the claimant has produced Exhibit A2 sale deed. The consideration for Exhibit A2 land was Rs.15,000/= per cent. A2 land is situated on the southern side of Poovattuparamba-Mavoor road. The distance between A2 land and the acquired land is nearly 3 Kms. In Exhibit C1 commission report, the Commissioner also reported that the land covered by the basic document is wet land having no direct road

access and that the property covered by Exhibit A2 document is having direct road access as in the case of the acquired land. The court below also noticed the fact that Exhibit A2 land and the acquired land are more or less similar and comparable in nature. It was further revealed that the transaction in Exhibt A2 is of the year 1996 whereas the section 4(1) notification is in the year 1998. Therefore, taking into consideration all the materials on record, the court below took the view that Rs.20,000/= per cent is the reasonable land value for the property acquired. We find that the reasons stated for refixing the land value of the property at the rate of Rs.20,000/= per cent is fair, just and proper. We find no reason to interfere with the decision of the court below. Regarding the value of the garden land also pro rata increase was made by the court below and the value was refixed at Rs.25,000/= per cent. Considering the fact that the value fixed for the wet land is Rs.20,000/- we are of the view that the value fixed for the dry land is also proper, just and reasonable. We find no merit in this appeal and the appeal is dismissed.

KURIAN JOSEPH, JUDGE.

HARUN-UL-RASHID, JUDGE.

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